

Exhibit
I

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 2:08-cv-1567 (JAG-MCA)
4

5 DR. FADI CHAABAN, DR. SABINO R. TORRE, :
6 DR. CONSTANTINOS A. COSTEAS and :
7 DR. ANTHONY J. CASELLA, as trustees of :
8 Diagnostic & Clinical Cardiology, PA, :
9 Profit Sharing Plan, :
10 Plaintiffs, :
11 vs. :
12 DR. MARIO CRISCITO, :
13 Defendant, :

14 - - - - -

15 DEPOSITION OF ANTHONY J. CASELLA, MD
16 THURSDAY, MAY 21, 2009
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20 ROSENBERG & ASSOCIATES, INC.
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1 T R A N S C R I P T of the stenographic
2 notes of the proceedings in the above-entitled
3 matter, as taken by and before LAURA WESTRA, a
4 Certified Court Reporter and Notary Public of the
5 State of New Jersey, held at the offices of WITMAN
6 STADTMAUER, 26 Columbia Turnpike, Florham Park, New
7 Jersey, on Thursday, May 21, 2009, commencing at
8 10:10 a.m.

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1 A P P E A R A N C E S:

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1 I N D E X

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3 WITNESS

4

5 ANTHONY J. CASELLA, MD PAGE

6 BY: MR. KERN 5

7 BY: MR. CHARME 125

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10 E X H I B I T S

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12 NUMBER DESCRIPTION PAGE

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14 Casella-1 FAX/AMOUNTS REPORTED TO APC 24

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17 (Exhibits retained by counsel.)

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1 A N T H O N Y J. C A S E L L A, 28 Holton Lane,
2 Essex Fells, New Jersey, is duly sworn by a
3 Notary Public of the State of New Jersey and
4 testifies under oath as follows:

5 DIRECT EXAMINATION BY MR. KERN:

6 Q Dr. Casella, as you know, my name is
7 Steven Kern. I represent Mario Criscito in a case
8 that has been brought against him in the Federal
9 District Court captioned Chaaban, Torre, Costeas and
10 Casella as trustees for Diagnostic & Clinical
11 Cardiology, P.A. Profit Sharing Plan versus
12 Criscito. Are you familiar with the lawsuit,
13 doctor?

14 A Yes.

15 Q I am going to ask you a series of
16 questions here today. If at any point you do not
17 understand my question, you are confused, you feel
18 it is ambiguous or otherwise, please let me know.
19 Otherwise, the answers that you give will be deemed
20 to be responsive to the questions that I have asked
21 you. You understand that?

22 A Yes.

23 Q Have you been deposed before?

24 A Yes.

25 Q On how many occasions?

1 '99 that aren't mentioned, and there are other
2 mutual funds out there that is not -- they are not
3 mentioned on the sheet, so --

4 Q Just the ways we have already talked
5 about?

6 A Yes.

7 Q Okay. Paragraph 28. To your
8 knowledge, did APC ever request backup for the
9 January 13, 2000 facsimile?

10 A There are several letters in the APC files
11 over the years requesting that he send the brokerage
12 statements, and he never did.

13 Q Was there any communication asking for
14 brokerage statements for backup for the January
15 13th?

16 A No.

17 Q And in fact, in February, APC received
18 statements from Morgan Stanley, correct?

19 A Yes.

20 Q February 2000, correct?

21 A Yes.

22 Q Prior to 2007 did you or anyone else at
23 DCC, other than Dr. Criscito, ever ask for any
24 information from APC?

25 A No. The only information that we would ask

1 for would be if an employee wanted to take their
2 money out because they were no longer with the
3 company, what was the protocol. We asked them to
4 prepare 1099s if somebody took money out. Things
5 like that. I mean, it had nothing to do with --

6 Q Did APC ever refuse to provide any
7 information requested by you or anybody else at DCC?

8 A I never requested information about anybody's
9 accounts. I never --

10 Q I understand you may not have asked for
11 it.

12 A Right.

13 Q My question is was there any time you
14 asked for anything from APC that APC refused to
15 provide because they said to you, I can't give it to
16 you because Dr. Criscito said not to?

17 A I can think of one occasion in 2004 when Mario
18 changed his address. They tried to deliver the 5500
19 form to his house FedEx, and he always did it at the
20 last minute, so it was gonna be late. And they
21 called the office and said, we tried to deliver it
22 to his house. We couldn't. And I said, well, he
23 moved. He never gave them the address. I said,
24 well, why don't you deliver it to the office? And
25 they said, absolutely not. Dr. Criscito gets

1 everything to his house.

2 Q Any other times?

3 A There were no other times when I asked for
4 information about anybody's account.

5 Q Did you ever ask Dr. Criscito for
6 information concerning any of the accounts?

7 A No.

8 Q Did you ever ask Morgan Stanley for any
9 information from any of the accounts?

10 A No.

11 Q Did you ever ask Schwab for any
12 information concerning any of the accounts?

13 A No.

14 Q To your knowledge, did anyone at DCC
15 request any information from any of these entities
16 concerning any of these accounts, other than the
17 segregated?

18 A My practice administrator, prior to his being
19 segregated, asked Criscito on several occasions how
20 much his fund was worth because he never received
21 any statements. And after he asked him about a
22 third time Criscito took his hand and wrote down the
23 amount on the back of his hand and said, that's your
24 amount.

25 Q That will be Mr. Brown?

1 C E R T I F I C A T E

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3 I, LAURA WESTRA, a Certified Court Reporter
4 and Notary Public of the State of New Jersey,
5 certify that the foregoing is a true and accurate
6 transcript of the deposition of said witness who was
7 first duly sworn by me, on the date and place
8 hereinbefore set forth.

9 I FURTHER CERTIFY that I am neither attorney
10 nor counsel for, nor related to or employed by, any
11 of the parties to the above action, and further that
12 I am not a relative or employee of any attorney or
13 counsel employed in this action, nor am I
14 financially interested in this case.

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21 LAURA WESTRA, C.C.R.

22 LICENSE NO. XIO1734

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